

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Investigation by the Department on its own motion, )  
pursuant to G.L. c.159 § § 12 and 16, into the )  
collocation security policies of Verizon New )  
England Inc. d/b/a Verizon Massachusetts )  
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**D.T.E. 02-8**

**REPLY COMMENTS ON MOTIONS TO COMPEL  
ON BEHALF OF QWEST COMMUNICATIONS CORPORATION**

Qwest Communications Corporation (“Qwest”) submits these Reply Comments in response to the Comments filed on the Motions to Compel from Allegiance Telecom of Massachusetts, Inc. (“Allegiance”) and XO Massachusetts, Inc. (“XO”). On May 13, 2002, the Hearing Officer in the above-captioned proceeding requested comments on the Motions of Allegiance and XO to compel the responses of Verizon Massachusetts (“Verizon”) to specific Information Requests. In Comments submitted on May 20, 2002, AT&T Communications of New England, Inc. (“AT&T”) supported the Motions compelling Verizon to provide appropriate cost estimates for proposed and existing security measures, while Verizon continued attempts to shirk its responsibility to demonstrate that the additional security measures in its proposal are appropriate.

To the extent those Information Requests relate to the issue of submitting cost estimates associated with the various methods of securing the central office (“CO”) and other facilities, Qwest urges the Department to disregard Verizon’s unsubstantiated arguments against including costs in the Department’s determination of what, if any, modifications to security policies are necessary. Furthermore, Qwest expressly asks the Department to grant the Motions to Compel

as reviewing the estimated cost of various security measures is vital to adequately addressing the issues raised by the Department in this investigation.

## **ARGUMENT**

To satisfy the objectives of this investigation, Verizon must submit information on the costs associated with existing security measures, as well as those proposed by Verizon. XO seeks to have the Department compel Verizon to respond to its Information Request XO-VZ-1-6 regarding the cost of implementing Verizon's proposed security plan, which includes segregating CLEC's equipment in central office, if not excluding CLECs from collocating in a central office altogether.<sup>1</sup> Likewise, Allegiance requests that the Department compel Verizon to provide estimates for the cost of monitoring a central office "real-time" through cameras and guards.<sup>2</sup> In its Reply to these Motions to Compel, Verizon merely states that the data requested in these Information Requests are "irrelevant", "immaterial", "inappropriate", "beyond the scope of the proceeding", "not readily available", "premature", and "unduly burdensome" to produce.<sup>3</sup> Responding to the Information Requests, however, is central to the analysis and required for any conclusions in the investigation that the Department strives to undertake.

Costs have customarily been a primary factor in determining whether any collocation requirements are "just" and "reasonable".<sup>4</sup> In determining whether a requirement is "just" and "reasonable", the FCC and the Department considered whether a collocation requirement would be practical, not only from an operational standpoint, but also from an economic perspective. For instance, in denying the ILECs' request to use segregation measures as a general security

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<sup>1</sup> XO Massachusetts' Motion to Compel Verizon Responses to XO Information Requests at 1-2 (May 8, 2002).

<sup>2</sup> Motion of Allegiance Telecom of Massachusetts, Inc. To Compel Responses to Information Requests at 7 (May 10, 2002).

<sup>3</sup> Verizon Massachusetts' Reply to Motions to Compel at 1, 5 (May 20, 2002).

<sup>4</sup> See Allegiance Motion at 8-9. (Stating that "It cannot be the case that a measure may be imposed by an administrative agency and be found to be 'just and reasonable' without any reference to its costs.")

policy, the FCC explicitly concluded that “as competitive LECs contend, mandatory separation of physical collocation space can substantially increase physical collocation costs.”<sup>5</sup> Moreover, when setting the appropriate security measures in Massachusetts, the Department has considered the efficiency of security measures based on whether the measure would “increase the costs of collocation without providing a necessary security benefit.”<sup>6</sup> It is clear that regulatory review of appropriate collocation security requirements calls for an examination of the costs associated with those requirements.

Not only are the costs associated with existing and proposed security measures relevant and material to the determination whether such measures are needed, the costs are inherently within the scope of this proceeding. As XO explains, evaluating the costs of changing the CO security would ensure “the most cost-effective way to maximize network security.”<sup>7</sup> Furthermore, AT&T adequately explained that despite Verizon’s argument—that parties waived their right to raise objections to excluding costs from this investigation<sup>8</sup>—the parties apparently did not object to the Hearing Officer’s statements, because there was no question that the cost of security measures would remain a factor in the Department’s investigation.<sup>9</sup> According to AT&T, the only costing issue being deferred to any possible subsequent phase was the setting of specific rate elements by the Department for any security modifications, but only if the Department deemed that modifications were deemed appropriate, and that rate setting was required.<sup>10</sup>

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<sup>5</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Fourth Report and Order, FCC 01-204, ¶ 50 (rel. Aug. 8, 2001)(“*Collocation Remand Order*”).

<sup>6</sup> D.T.E. 98-57, Phase I, *Reconsideration Order* at 16 (2000); *see also* D.T.E. 98-57, Phase I, *Order* at 24-39 (2000), *on recon. Reconsideration Order* at 12-16.

<sup>7</sup> XO Motion at 4.

<sup>8</sup> Verizon Comments at 5.

<sup>9</sup> AT&T Comments at 2 *citing* Procedural Conference Tr. 15:12-17 (Feb. 25, 2002).

<sup>10</sup> *Id.*

Even if it was not inherently clear that costs were to be a part of the investigation, Verizon expressly raised the issue of security costs in its Direct Testimony. Verizon introduced statements in its Direct Testimony that Verizon should be able to recover all costs from CLECs, as the “cost causers”.<sup>11</sup> Essentially, Verizon wants the Commission to precipitate a conclusion that all costs be born by the competitors prior to even determining that there are any costs. Verizon certainly cannot expect the Department to make a conclusion on the appropriate security measures, much less the party responsible for those costs, without reviewing the estimated costs associated with these security measures. Therefore, the issue of cost estimates is expressly and squarely within the scope of this investigation.

Preliminary cost analysis for the available security measures also are not premature, or unduly burdensome. As Allegiance explains, the only data requested were “cost estimates for different collocation security methods—costs that will give the parties and the Department some basis for determining the effect of these proposed measures on competition, and whether such measures are the best use of the scarce resources at Verizon’s disposal.”<sup>12</sup> Indeed, cost estimates for each of the existing and proposed security measures should theoretically be available through the ordinary course of business, or as a result of earlier costing proceedings in Massachusetts.<sup>13</sup>

For instance, Verizon should have some idea of the expenses incurred when converting from physical collocation to virtual collocation, because of its previous experience in transitioning virtual collocation arrangements to physical arrangements. Instead of recognizing this similarity, Verizon contends that providing estimates for such conversion is “impossible”

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<sup>11</sup> Panel Testimony of Verizon Massachusetts at 40-41 (April 5, 2002).

<sup>12</sup> Allegiance Motion at 9-10.

<sup>13</sup> See *Order* at 188-193; *Consolidated Arbitrations*, D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94, Phase 4-G Order (1998); *Consolidated Arbitrations*, D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94, Phase 4-I Order (1999).

because Verizon has not determined the exact number of “critical” COs.<sup>14</sup> The obvious solution is for Verizon to provide the estimated cost of the virtual conversion per CO, allowing the Department to surmise through simple multiplication the magnitude of the costs Verizon seeks to impose upon CLECs by requiring competitors to forfeit physical collocation in multiple central offices.

### **CONCLUSION**

Accordingly, Qwest asks the Department to dismiss Verizon’s arguments, and to require Verizon to respond to the Information Requests regarding the cost of various security alternatives, in a manner that will allow the Department’s investigation to produce a meaningful result.

Respectfully submitted,

QWEST COMMUNICATIONS CORPORATION

Its Attorney,

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Kristin L. Smith  
1801 California Street, Suite 4900  
Denver, Colorado 80202  
Phone: 303 672-2820  
Facsimile: 303 295-7069

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<sup>14</sup> Verizon Comments at 6.